

Notice of Allowability

Application No.

09/277,401

Applicant(s)

JAYE ET AL.

Examiner

William W. Moore

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1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Request and amendments filed 5 May 2005.
2. ☒ The allowed claim(s) is/are 59 and 103.
3. ☒ The drawings filed on 05 May 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5 May 2005 has been entered.

Priority

As noted in previous communications, the instant application is granted the benefit of priority of the U.S. Provisional Application Nos. 60/032,254 and 60/032,783 filed on December 6, 1996 and of the U.S. non-provisional Application No. 08/985,492 filed on December 5, 1997.

Preliminary Amendment

Applicant's Response filed 5 May 2005, amends pages 20-26, 29, 35, 46, 77-78, 81-83, 85-86, 90-108, and 111 of the specification, deletes Figures 1-5 and providing the former Figures 6-23 as Figures 1-18, provides a revised Sequence Listing in printed and computer-readable forms, amends claim 59, cancels the non-elected claims 15, 16, 22, 44, 57, 58, 63-65, and 98-102, and provides a new abstract. These amendments have been entered. Claims 1-14, 17-21, 23-43, 45-56, 60-62, 66-97, 104 and 105 were previously cancelled, thus claims 59 and 103 remain in the application.

Response to Amendment

Applicant's re-written Abstract submitted 5 May 2005 is APPROVED. Applicant's deletion of the Drawing Figures 1-5 filed 21 October 2004, corresponding largely to the

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Drawing Figures 1-5 filed with the specification on 26 March 1999, is not objected to because the nucleic acid and amino acid sequences set forth in the original Drawing Figures 1-5 are all set forth in the revised Sequence Listing of the specification filed 5 May 2005. Applicant's deletion of Drawing Figures numbered 24-28 filed 21 October 2004, together with the amendments made to pages 20-25 and 39, 46, 77, 78, 81, 85, 90-99, 101, 103-108, and 111 of the specification filed 5 May 2005 overcome the objection of record to the specification for new matter and also conform the disclosure to the renumbered Drawing Figures and revised Sequence Listing filed 5 May 2005. Applicant's further amendments to the specification that delete nucleic acid and amino acid sequences of SEQ IDs NOs: 5, 6, 9, and 10 and that delete portions of the text at pages 29, 35, 82, and 83 of the specification are also responsive to the objection of record to the specification made at pages 3 and 4 of the communication mailed 13 January 2005. These deletions do not constitute an introduction of new matter by omission of subject matter disclosed when the application was filed because none of these disclosures are required to support the subject matter described by claims 59 and 103 that remain in the application.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The amendment to claim 59, identifying the 500 amino acid sequence of the human endothelial lipase that is now set forth SEQ ID NO:6 by virtue of the amendments filed 5 May 2005, remove the basis for the rejection of record affecting claims 59 and 103 which are allowed herewith.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Conclusion

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William W. Moore whose telephone number is 571.272.0933 and whose FAX number is 571.273.0933. The examiner can normally be reached Monday through Friday between 9:00AM and 5:30PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisory Primary Examiner, Dr. Kathleen Kerr, can be reached at 571.272.0931. The official FAX number for all communications for the organization where this application or proceeding is assigned is 571.273.8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571.272.1600.

William W. Moore
12 July 2005


NASHAAT T. NASHED PHD.
PRIMARY EXAMINER